

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
NORTHERN DIVISION

WHEREAS, on May 22, 2015, the plaintiff, Sioux Rural Water System, Inc. ("Sioux"), filed a Complaint and initiated a lawsuit against the defendants, City of Watertown ("City") and Watertown Municipal Utilities ("WMU"). Sioux claims that it is a federally indebted rural water district and that it is entitled to certain rights provided to it by 7 U.S.C. §1926(b), and that defendants were violating Sioux's rights by serving customers within Sioux's federally-protected territory. Defendants denied Sioux's allegations in their Answer, dated June 11, 2015.

WHEREAS, to avoid the hazards, expense, and uncertainty of a trial, Sioux and defendants agreed to mediate this dispute and were able to reach an agreement. The parties hereby submit the following to the Court for approval as a Consent Decree.

The Court having considered all papers filed and proceedings had herein and otherwise being fully informed in the premises and good cause appearing therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. Resolution of All Issues. The agreement set forth herein resolves all issues raised in the litigation entitled Sioux Rural Water System, Inc. v. City of Watertown, et al., Civ. 15-1023, in the United States District Court, District of South Dakota, Northern Division, including claims for injunctive relief, damages and attorneys' fees. Sioux, for itself and all other persons, groups or firms claiming, or who could claim, by, through or with Sioux, hereby fully and forever releases and discharges the City and WMU and all other persons and firms whomsoever from all claims which were or could have been asserted by existing or amended pleadings in this lawsuit, except for enforcement of their obligations under this Consent Decree.
2. Sioux's Territory. The shaded area depicting Sioux's service territory on the map attached as Exhibit A, which is incorporated by this reference, is not intended to represent the full extent of Sioux's service territory, but only represents that part of Sioux's territory which lies adjacent to areas served by WMU. Nothing in this Consent

Decree is intended to limit any claim to service territory Sioux may make except as reflected on Exhibit A.

3. Sioux's Customers. WMU, neither now nor in the future, has any right to serve any customer Sioux is actively serving without receiving Sioux's consent and a waiver from the United States Department of Agriculture's Department of Rural Development ("Rural Development"). Sioux retains the right to serve all customers it is currently serving, regardless of whether they are in Sioux's territory depicted on Exhibit A.
4. WMU's Customers. WMU may continue to serve any customer located in Sioux's territory, as depicted on Exhibit A, if WMU is serving such customer as of the date of this Consent Decree. Sioux agrees that it will not make any claim for compensation or a right to serve any such customers as long as WMU continues to provide such service.
5. Future Commercial Development. WMU shall pay Sioux the sum of \$5,000 per commercial/industrial lot platted and annexed in the future in any part of Sioux's territory as defined on Exhibit A. Upon receipt of a plat request, Sioux shall execute whatever documents are necessary to amend Exhibit A to this Consent Decree to remove that portion of the property being annexed from Sioux's territory and seek whatever approvals are necessary to obtain a waiver or

approval from Rural Development. Once an area has been removed from Sioux's territory pursuant to this section, no further claims regarding such territory may be made by Sioux.

6. Future Residential Development. The Codington County Zoning Ordinance restricts the development of residential development outside the city limits of the City of Watertown. Those restrictions currently require any newly constructed residence to have at least thirty-five (35) acres of land associated with such residence. WMU shall pay Sioux the sum of \$8,900 per 35 acres of residential area developed within Sioux's territory as such developments are platted. If the county zoning ordinance is changed to either increase or decrease the acreage requirements for such development outside of the city limits, the payment required under this paragraph will correspondingly be modified. Any payment calculated pursuant to this paragraph will be rounded up (e.g. 110 acres of development will require a payment of \$35,600). In no event will such payment be less than \$8,900. Sioux shall execute whatever documents are necessary to amend Exhibit A to this Consent Decree to remove that portion of the property being annexed from Sioux's territory and seek whatever approvals are necessary to obtain a waiver or approval from Rural

Development. Once an area has been removed from Sioux's territory pursuant to this section, no further claims regarding such territory may be made by Sioux.

7. Term and Binding Effect. The terms of this Consent Decree shall be binding upon the parties, as well as their agents, their successors-in-interest, and their assigns, for a period of 99 years.
8. Additional Consideration. Defendants shall pay \$100,000 to Sioux as additional consideration.
9. Authority. All undersigned counsel of record for the parties have the authority to enter into and execute this Consent Decree on behalf of their clients. Sioux shall forthwith present this Consent Decree to Rural Development.

ZIMMER, DUNCAN & COLE, LLP

Dated: 8-28-17

By _____

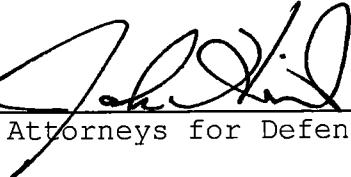

Attorneys for Plaintiff

5000 South Broadband Lane, Ste. 119
Sioux Falls, SD 57108
Telephone No. 605-361-9840
e-mail: jcole@zdclaw.com
bill@zdclaw.com

RICHARDSON, WYLY, WISE, SAUCK
& HIEB, LLP

Dated: 8/28/17

By



Atorneys for Defendants

One Court Street
Post Office Box 1030
Aberdeen, SD 57402-1030
Telephone No. 605-225-6310
e-mail: jhieb@rwwsh.com
zpeterson@rwwsh.com

Pursuant to the foregoing agreement of the parties, and
for good cause shown, IT IS SO ORDERED.

Dated this 28th day of August, 2017.

BY THE COURT:



Charles B. Kornmann
HONORABLE CHARLES B. KORNMANN
United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

By Summers/Wyly/Hieb
Deputy